

Attorney Docket No.: DRE-0055
Inventors: Laurencin et al.
Serial No.: 09/878,641
Filing Date: June 11, 2001
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REMARKS

Claims 1-11 are pending in the instant application.
Claims 1-11 have been rejected. Reconsideration is respectfully requested in light of the following remarks.

Rejection of Claims 1-11 under 35 U.S.C. § 103(a)

Claims 1-3 and 6-9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wolowacz et al. (WO 95/01810 A1) in view of Chervitz (U.S. Patent 4,917,699). The Examiner suggests that Wolowacz et al. discloses a replacement construct for tendons or ligaments with all the elements of claim 1 and 2, but is silent to the braided scaffold being a three-dimensional braided scaffold formed using a three dimensional textile braiding technique. However, the Examiner suggests that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to look to the teachings of Chervitz relating to a prosthetic ligament comprising a three-dimensional braided scaffold formed using a three-dimensional textile braiding technique to modify the standard braided scaffold of Wolowacz et al. to a three-dimensional braided scaffold formed using a three-dimensional textile braiding technique.

Claims 4, 5, 10 and 11 have also been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wolowacz et al.

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in view of Chervitz as applied to claims 2 and 8, and further in view of Vacanti (U.S. Patent 5,855,610).

Applicants respectfully traverse these rejections.

It is respectfully pointed out that the combination of reference teachings cited in the instant rejections is very similar to the combination of reference teachings cited in the Office Action mailed March 26, 2004, namely Hlavacek and Chervitz. Like Hlavacek, the Examiner has acknowledged Wolowacz et al. to be silent with respect to three-dimensional braiding techniques for their prosthetic devices. The obviousness rejection of the pending claims as being unpatentable over Hlavacek in combination with Chervitz and further combination with Vacanti was overcome by arguments and amendments to the claims submitted by Applicants in the amendments of June 28, 2004 and January 26, 2004.

As already discussed in detail in the January 26, 2004 and June 28, 2004 amendments, prior to the present invention, three dimensional braiding of degradable polymers had not been successfully performed due to the nature of the mechanical forces involved and the differences in the mechanical properties of degradable fibers versus fibers such as taught by Chervitz. Accordingly, the teaching of Chervitz are in no way predictive of successfully producing

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a three dimensional braided scaffold of degradable polymeric fibers.

Thus, the newly cited combination of references, Wolowacz and Vacanti, which have been acknowledged by the Examiner to be silent with respect to three dimensional braiding techniques, and Chervitz, which utilizes different fibers with different mechanical properties to those claimed in the instant invention, provides no reasonable expectation of success with respect to the instant claimed invention. Therefore, this newly cited combination of references also fails to meet all the criteria to establish a prima facie case of obviousness with respect to the instant claimed invention (see MPEP § 2143).

Withdrawal of these rejections under 35 U.S.C. § 103(a) is therefore respectfully requested.

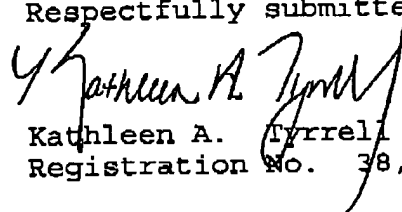
Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

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Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,


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Date: January 5, 2005

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